

Brenda L. Fox
Continental Cablevision, Inc.
1320 19th Street, Suite 201
Washington, D.C. 20036

Werner K. Hartenberger, Leonard J.
Kennedy
Laura H. Phillips, JG Harrington
Dow, Lohnes & Albertson
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, D.C. 20036

Harold Crumpton
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

Lawrence D. Crocker, III
Public Service Commission of the
District of Columbia
450 5th Street, N.W.
Washington, D.C. 20001

Raymond G. Bender, Jr., JG Harrington
Peter A. Batacan
Vanguard Cellular Systems, Inc.
Dow, Lohnes & Albertson
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, D.C. 20036

James U. Troup
L. Charles Keller
Arter & Hadden
1801 K Street, N.W., Suite 400 K
Washington, D.C. 20006

Edward C. Addison
Virginia State Corporation Commission
Division of Communications
P. O. Box 1197
Richmond, VA 23218

Richard A. Finnigan
Washington Independent Telephone
Association
2405 Evergreen Park Drive, S.W.
Suite B-1
Olympia, WA 98502

Charles H. Kennedy
Morrison & Foerster, LLP
2000 Pennsylvania Avenue, N.W.
Suite 5500
Washington, D.C. 20006

Prof. Nicholas Economides
Stern School of Business
New York University
New York, New York 10012

David C. Jatlow
The Ericsson Corporation
Young & Jatlow
Suite 600
2300 N Street, N.W.
Washington, D.C. 20036

J. Christopher Dance
Kerry Tassopoulos
Excel Telecommunications, Inc.
9330 LBJ Freeway
Suite 1220
Dallas, Texas 75243

Marc A. Stone
Fred Williamson & Associates, Inc.
2921 East 91st Street
Suite 200
Tulsa, OK 74137-3300

Timothy R. Graham
Robert M. Berger
Joseph M. Sandri, Jr.
Winstar Communications, Inc.
1146 19th Street, N.W.
Washington, D.C. 20036

Stephen G. Oxley
State of Wyoming Public Service
Commission
700 W. 21st Street
Cheyenne, WY 82002

Bryan G. Moorhouse
Susan Stevens Miller
Maryland Public Service Commission
6 St. Paul Street
Baltimore, Maryland 21202

Roy L. Morris
Frontier Communication Services, Inc.
1990 M Street, N.W.
Suite 500
Washington, D.C. 20036



PUBLIC LAW 104-104—FEB. 8, 1996

TELECOMMUNICATIONS ACT OF 1996

Public Law 104-104
104th Congress

An Act

Feb. 8, 1996
[S. 652]

Telecommuni-
cations Act of
1996.
Intergovern-
mental relations.
47 USC 609 note.

To promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) **SHORT TITLE.**—This Act may be cited as the “Telecommunications Act of 1996”.

(b) **REFERENCES.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title; references.
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Sec. 101. Establishment of part II of title II.

“PART II—DEVELOPMENT OF COMPETITIVE MARKETS

- “Sec. 251. Interconnection.
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Subtitle B—Special Provisions Concerning Bell Operating Companies

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- “Sec. 271. Bell operating company entry into interLATA services.
- “Sec. 272. Separate affiliate; safeguards.

- "Sec. 273. Manufacturing by Bell operating companies.
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- "Sec. 276. Provision of payphone service."

TITLE II—BROADCAST SERVICES

- Sec. 201. Broadcast spectrum flexibility.
- "Sec. 336. Broadcast spectrum flexibility."
- Sec. 202. Broadcast ownership.
- Sec. 203. Term of licenses.
- Sec. 204. Broadcast license renewal procedures.
- Sec. 205. Direct broadcast satellite service.
- Sec. 206. Automated ship distress and safety systems.
- "Sec. 365. Automated ship distress and safety systems."
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TITLE III—CABLE SERVICES

- Sec. 301. Cable Act reform.
- Sec. 302. Cable service provided by telephone companies.

"PART V—VIDEO PROGRAMMING SERVICES PROVIDED BY TELEPHONE COMPANIES

- "Sec. 651. Regulatory treatment of video programming services.
- "Sec. 652. Prohibition on buy outs.
- "Sec. 653. Establishment of open video systems."
- Sec. 303. Preemption of franchising authority regulation of telecommunications services.
- Sec. 304. Competitive availability of navigation devices.
- "Sec. 629. Competitive availability of navigation devices."
- Sec. 305. Video programming accessibility.
- "Sec. 713. Video programming accessibility."

TITLE IV—REGULATORY REFORM

- Sec. 401. Regulatory forbearance.
- "Sec. 10. Competition in provision of telecommunications service."
- Sec. 402. Biennial review of regulations; regulatory relief.
- "Sec. 11. Regulatory reform."
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TITLE V—OBSCENITY AND VIOLENCE

Subtitle A—Obscene, Harassing, and Wrongful Utilization of Telecommunications Facilities

- Sec. 501. Short title.
- Sec. 502. Obscene or harassing use of telecommunications facilities under the Communications Act of 1934.
- Sec. 503. Obscene programming on cable television.
- Sec. 504. Scrambling of cable channels for nonsubscribers.
- "Sec. 640. Scrambling of cable channels for nonsubscribers."
- Sec. 505. Scrambling of sexually explicit adult video service programming.
- "Sec. 641. Scrambling of sexually explicit adult video service programming."
- Sec. 506. Cable operator refusal to carry certain programs.
- Sec. 507. Clarification of current laws regarding communication of obscene materials through the use of computers.
- Sec. 508. Coercion and enticement of minors.
- Sec. 509. Online family empowerment.
- "Sec. 230. Protection for private blocking and screening of offensive material."

Subtitle B—Violence

- Sec. 551. Parental choice in television programming.
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- Sec. 561. Expedited review.

TITLE VI—EFFECT ON OTHER LAWS

- Sec. 601. Applicability of consent decrees and other law.
- Sec. 602. Preemption of local taxation with respect to direct-to-home services.

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- Sec. 701. Prevention of unfair billing practices for information or services provided over toll-free telephone calls.

- Sec. 702. Privacy of customer information.
"Sec. 222. Privacy of customer information."
Sec. 703. Pole attachments.
Sec. 704. Facilities siting; radio frequency emission standards.
Sec. 705. Mobile services direct access to long distance carriers.
Sec. 706. Advanced telecommunications incentives.
Sec. 707. Telecommunications Development Fund.
"Sec. 714. Telecommunications Development Fund."
Sec. 708. National Education Technology Funding Corporation.
Sec. 709. Report on the use of advanced telecommunications services for medical purposes.
Sec. 710. Authorization of appropriations.

SEC. 3. DEFINITIONS.

(a) **ADDITIONAL DEFINITIONS.**—Section 3 (47 U.S.C. 153) is amended—

(1) in subsection (r)—

(A) by inserting "(A)" after "means"; and

(B) by inserting before the period at the end the following: "; or (B) comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service"; and

(2) by adding at the end thereof the following:

"(33) **AFFILIATE.**—The term 'affiliate' means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term 'own' means to own an equity interest (or the equivalent thereof) of more than 10 percent.

"(34) **AT&T CONSENT DECREE.**—The term 'AT&T Consent Decree' means the order entered August 24, 1982, in the anti-trust action styled United States v. Western Electric, Civil Action No. 82-0192, in the United States District Court for the District of Columbia, and includes any judgment or order with respect to such action entered on or after August 24, 1982.

"(35) **BELL OPERATING COMPANY.**—The term 'Bell operating company'—

"(A) means any of the following companies: Bell Telephone Company of Nevada, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, New England Telephone and Telegraph Company, New Jersey Bell Telephone Company, New York Telephone Company, U S West Communications Company, South Central Bell Telephone Company, Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company, The Bell Telephone Company of Pennsylvania, The Chesapeake and Potomac Telephone Company, The Chesapeake and Potomac Telephone Company of Maryland, The Chesapeake and Potomac Telephone Company of Virginia, The Chesapeake and Potomac Telephone Company of West Virginia, The Diamond State Telephone Company, The Ohio Bell Telephone Company, The Pacific Telephone and Telegraph Company, or Wisconsin Telephone Company; and

"(B) includes any successor or assign of any such company that provides wireline telephone exchange service; but

“(C) does not include an affiliate of any such company, other than an affiliate described in subparagraph (A) or (B).

“(36) CABLE SERVICE.—The term ‘cable service’ has the meaning given such term in section 602.

“(37) CABLE SYSTEM.—The term ‘cable system’ has the meaning given such term in section 602.

“(38) CUSTOMER PREMISES EQUIPMENT.—The term ‘customer premises equipment’ means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

“(39) DIALING PARITY.—The term ‘dialing parity’ means that a person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications services provider of the customer’s designation from among 2 or more telecommunications services providers (including such local exchange carrier).

“(40) EXCHANGE ACCESS.—The term ‘exchange access’ means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.

“(41) INFORMATION SERVICE.—The term ‘information service’ means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

“(42) INTERLATA SERVICE.—The term ‘interLATA service’ means telecommunications between a point located in a local access and transport area and a point located outside such area.

“(43) LOCAL ACCESS AND TRANSPORT AREA.—The term ‘local access and transport area’ or ‘LATA’ means a contiguous geographic area—

“(A) established before the date of enactment of the Telecommunications Act of 1996 by a Bell operating company such that no exchange area includes points within more than 1 metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the AT&T Consent Decree; or

“(B) established or modified by a Bell operating company after such date of enactment and approved by the Commission.

“(44) LOCAL EXCHANGE CARRIER.—The term ‘local exchange carrier’ means any person that is engaged in the provision of telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under section 332(c), except to the extent that the Commission finds that such service should be included in the definition of such term.

“(45) NETWORK ELEMENT.—The term ‘network element’ means a facility or equipment used in the provision of a telecommunications service. Such term also includes features, func-

tions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.

“(46) NUMBER PORTABILITY.—The term ‘number portability’ means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

“(47) RURAL TELEPHONE COMPANY.—The term ‘rural telephone company’ means a local exchange carrier operating entity to the extent that such entity—

“(A) provides common carrier service to any local exchange carrier study area that does not include either—

“(i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or

“(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

“(B) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

“(C) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

“(D) has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996.

“(48) TELECOMMUNICATIONS.—The term ‘telecommunications’ means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

“(49) TELECOMMUNICATIONS CARRIER.—The term ‘telecommunications carrier’ means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in section 226). A telecommunications carrier shall be treated as a common carrier under this Act only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.

“(50) TELECOMMUNICATIONS EQUIPMENT.—The term ‘telecommunications equipment’ means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades).

“(51) TELECOMMUNICATIONS SERVICE.—The term ‘telecommunications service’ means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.”

(b) **COMMON TERMINOLOGY.**—Except as otherwise provided in this Act, the terms used in this Act have the meanings provided in section 3 of the Communications Act of 1934 (47 U.S.C. 153), as amended by this section. 47 USC 153 note.

(c) **STYLISTIC CONSISTENCY.**—Section 3 (47 U.S.C. 153) is amended—

(1) in subsections (e) and (n), by redesignating clauses (1), (2), and (3), as clauses (A), (B), and (C), respectively;

(2) in subsection (w), by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(3) in subsections (y) and (z), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(4) by redesignating subsections (a) through (ff) as paragraphs (1) through (32);

(5) by indenting such paragraphs 2 em spaces;

(6) by inserting after the designation of each such paragraph—

(A) a heading, in a form consistent with the form of the heading of this subsection, consisting of the term defined by such paragraph, or the first term so defined if such paragraph defines more than one term; and

(B) the words “The term”;

(7) by changing the first letter of each defined term in such paragraphs from a capital to a lower case letter (except for “United States”, “State”, “State commission”, and “Great Lakes Agreement”); and

(8) by reordering such paragraphs and the additional paragraphs added by subsection (a) in alphabetical order based on the headings of such paragraphs and renumbering such paragraphs as so reordered.

(d) **CONFORMING AMENDMENTS.**—The Act is amended—

(1) in section 225(a)(1), by striking “section 3(h)” and inserting “section 3”; 47 USC 225.

(2) in section 332(d), by striking “section 3(n)” each place it appears and inserting “section 3”; and 47 USC 332.

(3) in sections 621(d)(3), 636(d), and 637(a)(2), by striking “section 3(v)” and inserting “section 3”. 47 USC 541, 556, 557.

TITLE I—TELECOMMUNICATION SERVICES

Subtitle A—Telecommunications Services

SEC. 101. ESTABLISHMENT OF PART II OF TITLE II.

(a) **AMENDMENT.**—Title II is amended by inserting after section 229 (47 U.S.C. 229) the following new part:

“PART II—DEVELOPMENT OF COMPETITIVE MARKETS

“SEC. 251. INTERCONNECTION.

47 USC 251.

“(a) **GENERAL DUTY OF TELECOMMUNICATIONS CARRIERS.**—Each telecommunications carrier has the duty—

“(1) to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers; and

“(2) not to install network features, functions, or capabilities that do not comply with the guidelines and standards established pursuant to section 255 or 256.

“(b) OBLIGATIONS OF ALL LOCAL EXCHANGE CARRIERS.—Each local exchange carrier has the following duties:

“(1) RESALE.—The duty not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of its telecommunications services.

“(2) NUMBER PORTABILITY.—The duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.

“(3) DIALING PARITY.—The duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays.

“(4) ACCESS TO RIGHTS-OF-WAY.—The duty to afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services on rates, terms, and conditions that are consistent with section 224.

“(5) RECIPROCAL COMPENSATION.—The duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications.

“(c) ADDITIONAL OBLIGATIONS OF INCUMBENT LOCAL EXCHANGE CARRIERS.—In addition to the duties contained in subsection (b), each incumbent local exchange carrier has the following duties:

“(1) DUTY TO NEGOTIATE.—The duty to negotiate in good faith in accordance with section 252 the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (5) of subsection (b) and this subsection. The requesting telecommunications carrier also has the duty to negotiate in good faith the terms and conditions of such agreements.

“(2) INTERCONNECTION.—The duty to provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the local exchange carrier’s network—

“(A) for the transmission and routing of telephone exchange service and exchange access;

“(B) at any technically feasible point within the carrier’s network;

“(C) that is at least equal in quality to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection; and

“(D) on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and the requirements of this section and section 252.

“(3) UNBUNDLED ACCESS.—The duty to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252. An incumbent local exchange carrier shall

provide such unbundled network elements in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service.

“(4) RESALE.—The duty—

“(A) to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers; and

“(B) not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of such telecommunications service, except that a State commission may, consistent with regulations prescribed by the Commission under this section, prohibit a reseller that obtains at wholesale rates a telecommunications service that is available at retail only to a category of subscribers from offering such service to a different category of subscribers.

“(5) NOTICE OF CHANGES.—The duty to provide reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier’s facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks.

“(6) COLLOCATION.—The duty to provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations.

“(d) IMPLEMENTATION.—

“(1) IN GENERAL.—Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall complete all actions necessary to establish regulations to implement the requirements of this section.

Regulations.

“(2) ACCESS STANDARDS.—In determining what network elements should be made available for purposes of subsection (c)(3), the Commission shall consider, at a minimum, whether—

“(A) access to such network elements as are proprietary in nature is necessary; and

“(B) the failure to provide access to such network elements would impair the ability of the telecommunications carrier seeking access to provide the services that it seeks to offer.

“(3) PRESERVATION OF STATE ACCESS REGULATIONS.—In prescribing and enforcing regulations to implement the requirements of this section, the Commission shall not preclude the enforcement of any regulation, order, or policy of a State commission that—

“(A) establishes access and interconnection obligations of local exchange carriers;

“(B) is consistent with the requirements of this section; and

“(C) does not substantially prevent implementation of the requirements of this section and the purposes of this part.

“(e) NUMBERING ADMINISTRATION.—

“(1) COMMISSION AUTHORITY AND JURISDICTION.—The Commission shall create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis. The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States. Nothing in this paragraph shall preclude the Commission from delegating to State commissions or other entities all or any portion of such jurisdiction.

“(2) COSTS.—The cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.

“(f) EXEMPTIONS, SUSPENSIONS, AND MODIFICATIONS.—

“(1) EXEMPTION FOR CERTAIN RURAL TELEPHONE COMPANIES.—

“(A) EXEMPTION.—Subsection (c) of this section shall not apply to a rural telephone company until (i) such company has received a bona fide request for interconnection, services, or network elements, and (ii) the State commission determines (under subparagraph (B)) that such request is not unduly economically burdensome, is technically feasible, and is consistent with section 254 (other than subsections (b)(7) and (c)(1)(D) thereof).

“(B) STATE TERMINATION OF EXEMPTION AND IMPLEMENTATION SCHEDULE.—The party making a bona fide request of a rural telephone company for interconnection, services, or network elements shall submit a notice of its request to the State commission. The State commission shall conduct an inquiry for the purpose of determining whether to terminate the exemption under subparagraph (A). Within 120 days after the State commission receives notice of the request, the State commission shall terminate the exemption if the request is not unduly economically burdensome, is technically feasible, and is consistent with section 254 (other than subsections (b)(7) and (c)(1)(D) thereof). Upon termination of the exemption, a State commission shall establish an implementation schedule for compliance with the request that is consistent in time and manner with Commission regulations.

“(C) LIMITATION ON EXEMPTION.—The exemption provided by this paragraph shall not apply with respect to a request under subsection (c) from a cable operator providing video programming, and seeking to provide any telecommunications service, in the area in which the rural telephone company provides video programming. The limitation contained in this subparagraph shall not apply to a rural telephone company that is providing video programming on the date of enactment of the Telecommunications Act of 1996.

“(2) SUSPENSIONS AND MODIFICATIONS FOR RURAL CARRIERS.—A local exchange carrier with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate

nationwide may petition a State commission for a suspension or modification of the application of a requirement or requirements of subsection (b) or (c) to telephone exchange service facilities specified in such petition. The State commission shall grant such petition to the extent that, and for such duration as, the State commission determines that such suspension or modification—

“(A) is necessary—

“(i) to avoid a significant adverse economic impact on users of telecommunications services generally;

“(ii) to avoid imposing a requirement that is unduly economically burdensome; or

“(iii) to avoid imposing a requirement that is technically infeasible; and

“(B) is consistent with the public interest, convenience, and necessity.

The State commission shall act upon any petition filed under this paragraph within 180 days after receiving such petition. Pending such action, the State commission may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.

“(g) CONTINUED ENFORCEMENT OF EXCHANGE ACCESS AND INTERCONNECTION REQUIREMENTS.—On and after the date of enactment of the Telecommunications Act of 1996, each local exchange carrier, to the extent that it provides wireline services, shall provide exchange access, information access, and exchange services for such access to interexchange carriers and information service providers in accordance with the same equal access and nondiscriminatory interconnection restrictions and obligations (including receipt of compensation) that apply to such carrier on the date immediately preceding the date of enactment of the Telecommunications Act of 1996 under any court order, consent decree, or regulation, order, or policy of the Commission, until such restrictions and obligations are explicitly superseded by regulations prescribed by the Commission after such date of enactment. During the period beginning on such date of enactment and until such restrictions and obligations are so superseded, such restrictions and obligations shall be enforceable in the same manner as regulations of the Commission.

“(h) DEFINITION OF INCUMBENT LOCAL EXCHANGE CARRIER.—

“(1) DEFINITION.—For purposes of this section, the term ‘incumbent local exchange carrier’ means, with respect to an area, the local exchange carrier that—

“(A) on the date of enactment of the Telecommunications Act of 1996, provided telephone exchange service in such area; and

“(B)(i) on such date of enactment, was deemed to be a member of the exchange carrier association pursuant to section 69.601(b) of the Commission’s regulations (47 C.F.R. 69.601(b)); or

“(ii) is a person or entity that, on or after such date of enactment, became a successor or assign of a member described in clause (i).

“(2) TREATMENT OF COMPARABLE CARRIERS AS INCUMBENTS.—The Commission may, by rule, provide for the treatment of a local exchange carrier (or class or category thereof)

as an incumbent local exchange carrier for purposes of this section if—

“(A) such carrier occupies a position in the market for telephone exchange service within an area that is comparable to the position occupied by a carrier described in paragraph (1);

“(B) such carrier has substantially replaced an incumbent local exchange carrier described in paragraph (1); and

“(C) such treatment is consistent with the public interest, convenience, and necessity and the purposes of this section.

“(i) SAVINGS PROVISION.—Nothing in this section shall be construed to limit or otherwise affect the Commission’s authority under section 201.

7 USC 252.

“SEC. 252. PROCEDURES FOR NEGOTIATION, ARBITRATION, AND APPROVAL OF AGREEMENTS.

“(a) AGREEMENTS ARRIVED AT THROUGH NEGOTIATION.—

“(1) VOLUNTARY NEGOTIATIONS.—Upon receiving a request for interconnection, services, or network elements pursuant to section 251, an incumbent local exchange carrier may negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers without regard to the standards set forth in subsections (b) and (c) of section 251. The agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement. The agreement, including any interconnection agreement negotiated before the date of enactment of the Telecommunications Act of 1996, shall be submitted to the State commission under subsection (e) of this section.

“(2) MEDIATION.—Any party negotiating an agreement under this section may, at any point in the negotiation, ask a State commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation.

“(b) AGREEMENTS ARRIVED AT THROUGH COMPULSORY ARBITRATION.—

“(1) ARBITRATION.—During the period from the 135th to the 160th day (inclusive) after the date on which an incumbent local exchange carrier receives a request for negotiation under this section, the carrier or any other party to the negotiation may petition a State commission to arbitrate any open issues.

“(2) DUTY OF PETITIONER.—

“(A) A party that petitions a State commission under paragraph (1) shall, at the same time as it submits the petition, provide the State commission all relevant documentation concerning—

“(i) the unresolved issues;

“(ii) the position of each of the parties with respect to those issues; and

“(iii) any other issue discussed and resolved by the parties.

“(B) A party petitioning a State commission under paragraph (1) shall provide a copy of the petition and any documentation to the other party or parties not later than the day on which the State commission receives the petition.

“(3) OPPORTUNITY TO RESPOND.—A non-petitioning party to a negotiation under this section may respond to the other party’s petition and provide such additional information as it wishes within 25 days after the State commission receives the petition.

“(4) ACTION BY STATE COMMISSION.—

“(A) The State commission shall limit its consideration of any petition under paragraph (1) (and any response thereto) to the issues set forth in the petition and in the response, if any, filed under paragraph (3).

“(B) The State commission may require the petitioning party and the responding party to provide such information as may be necessary for the State commission to reach a decision on the unresolved issues. If any party refuses or fails unreasonably to respond on a timely basis to any reasonable request from the State commission, then the State commission may proceed on the basis of the best information available to it from whatever source derived.

“(C) The State commission shall resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required to implement subsection (c) upon the parties to the agreement, and shall conclude the resolution of any unresolved issues not later than 9 months after the date on which the local exchange carrier received the request under this section.

“(5) REFUSAL TO NEGOTIATE.—The refusal of any other party to the negotiation to participate further in the negotiations, to cooperate with the State commission in carrying out its function as an arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the State commission shall be considered a failure to negotiate in good faith.

“(c) STANDARDS FOR ARBITRATION.—In resolving by arbitration under subsection (b) any open issues and imposing conditions upon the parties to the agreement, a State commission shall—

“(1) ensure that such resolution and conditions meet the requirements of section 251, including the regulations prescribed by the Commission pursuant to section 251;

“(2) establish any rates for interconnection, services, or network elements according to subsection (d); and

“(3) provide a schedule for implementation of the terms and conditions by the parties to the agreement.

“(d) PRICING STANDARDS.—

“(1) INTERCONNECTION AND NETWORK ELEMENT CHARGES.—Determinations by a State commission of the just and reasonable rate for the interconnection of facilities and equipment for purposes of subsection (c)(2) of section 251, and the just and reasonable rate for network elements for purposes of subsection (c)(3) of such section—

“(A) shall be—

“(i) based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the interconnection or network element (whichever is applicable), and

“(ii) nondiscriminatory, and

“(B) may include a reasonable profit.

"(2) CHARGES FOR TRANSPORT AND TERMINATION OF TRAFFIC.—

"(A) IN GENERAL.—For the purposes of compliance by an incumbent local exchange carrier with section 251(b)(5), a State commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless—

"(i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier; and

"(ii) such terms and conditions determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.

"(B) RULES OF CONSTRUCTION.—This paragraph shall not be construed—

"(i) to preclude arrangements that afford the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements); or

"(ii) to authorize the Commission or any State commission to engage in any rate regulation proceeding to establish with particularity the additional costs of transporting or terminating calls, or to require carriers to maintain records with respect to the additional costs of such calls.

"(3) WHOLESALE PRICES FOR TELECOMMUNICATIONS SERVICES.—For the purposes of section 251(c)(4), a State commission shall determine wholesale rates on the basis of retail rates charged to subscribers for the telecommunications service requested, excluding the portion thereof attributable to any marketing, billing, collection, and other costs that will be avoided by the local exchange carrier.

"(e) APPROVAL BY STATE COMMISSION.—

"(1) APPROVAL REQUIRED.—Any interconnection agreement adopted by negotiation or arbitration shall be submitted for approval to the State commission. A State commission to which an agreement is submitted shall approve or reject the agreement, with written findings as to any deficiencies.

"(2) GROUNDS FOR REJECTION.—The State commission may only reject—

"(A) an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that—

"(i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or

"(ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity; or

"(B) an agreement (or any portion thereof) adopted by arbitration under subsection (b) if it finds that the agreement does not meet the requirements of section 251, including the regulations prescribed by the Commission pursuant to section 251, or the standards set forth in subsection (d) of this section.

“(3) PRESERVATION OF AUTHORITY.—Notwithstanding paragraph (2), but subject to section 253, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of an agreement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

“(4) SCHEDULE FOR DECISION.—If the State commission does not act to approve or reject the agreement within 90 days after submission by the parties of an agreement adopted by negotiation under subsection (a), or within 30 days after submission by the parties of an agreement adopted by arbitration under subsection (b), the agreement shall be deemed approved. No State court shall have jurisdiction to review the action of a State commission in approving or rejecting an agreement under this section.

“(5) COMMISSION TO ACT IF STATE WILL NOT ACT.—If a State commission fails to act to carry out its responsibility under this section in any proceeding or other matter under this section, then the Commission shall issue an order preempting the State commission’s jurisdiction of that proceeding or matter within 90 days after being notified (or taking notice) of such failure, and shall assume the responsibility of the State commission under this section with respect to the proceeding or matter and act for the State commission.

“(6) REVIEW OF STATE COMMISSION ACTIONS.—In a case in which a State fails to act as described in paragraph (5), the proceeding by the Commission under such paragraph and any judicial review of the Commission’s actions shall be the exclusive remedies for a State commission’s failure to act. In any case in which a State commission makes a determination under this section, any party aggrieved by such determination may bring an action in an appropriate Federal district court to determine whether the agreement or statement meets the requirements of section 251 and this section.

“(f) STATEMENTS OF GENERALLY AVAILABLE TERMS.—

“(1) IN GENERAL.—A Bell operating company may prepare and file with a State commission a statement of the terms and conditions that such company generally offers within that State to comply with the requirements of section 251 and the regulations thereunder and the standards applicable under this section.

“(2) STATE COMMISSION REVIEW.—A State commission may not approve such statement unless such statement complies with subsection (d) of this section and section 251 and the regulations thereunder. Except as provided in section 253, nothing in this section shall prohibit a State commission from establishing or enforcing other requirements of State law in its review of such statement, including requiring compliance with intrastate telecommunications service quality standards or requirements.

“(3) SCHEDULE FOR REVIEW.—The State commission to which a statement is submitted shall, not later than 60 days after the date of such submission—

“(A) complete the review of such statement under paragraph (2) (including any reconsideration thereof), unless the submitting carrier agrees to an extension of the period for such review; or

“(B) permit such statement to take effect.

“(4) **AUTHORITY TO CONTINUE REVIEW.**—Paragraph (3) shall not preclude the State commission from continuing to review a statement that has been permitted to take effect under subparagraph (B) of such paragraph or from approving or disapproving such statement under paragraph (2).

“(5) **DUTY TO NEGOTIATE NOT AFFECTED.**—The submission or approval of a statement under this subsection shall not relieve a Bell operating company of its duty to negotiate the terms and conditions of an agreement under section 251.

“(g) **CONSOLIDATION OF STATE PROCEEDINGS.**—Where not inconsistent with the requirements of this Act, a State commission may, to the extent practical, consolidate proceedings under sections 214(e), 251(f), 253, and this section in order to reduce administrative burdens on telecommunications carriers, other parties to the proceedings, and the State commission in carrying out its responsibilities under this Act.

Public
information.

“(h) **FILING REQUIRED.**—A State commission shall make a copy of each agreement approved under subsection (e) and each statement approved under subsection (f) available for public inspection and copying within 10 days after the agreement or statement is approved. The State commission may charge a reasonable and nondiscriminatory fee to the parties to the agreement or to the party filing the statement to cover the costs of approving and filing such agreement or statement.

“(i) **AVAILABILITY TO OTHER TELECOMMUNICATIONS CARRIERS.**—A local exchange carrier shall make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.

“(j) **DEFINITION OF INCUMBENT LOCAL EXCHANGE CARRIER.**—For purposes of this section, the term ‘incumbent local exchange carrier’ has the meaning provided in section 251(h).

7 USC 253.

“SEC. 253. REMOVAL OF BARRIERS TO ENTRY.

“(a) **IN GENERAL.**—No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

“(b) **STATE REGULATORY AUTHORITY.**—Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

“(c) **STATE AND LOCAL GOVERNMENT AUTHORITY.**—Nothing in this section affects the authority of a State or local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.

“(d) **PREEMPTION.**—If, after notice and an opportunity for public comment, the Commission determines that a State or local government has permitted or imposed any statute, regulation, or legal requirement that violates subsection (a) or (b), the Commission

shall preempt the enforcement of such statute, regulation, or legal requirement to the extent necessary to correct such violation or inconsistency.

“(e) **COMMERCIAL MOBILE SERVICE PROVIDERS.**—Nothing in this section shall affect the application of section 332(c)(3) to commercial mobile service providers.

“(f) **RURAL MARKETS.**—It shall not be a violation of this section for a State to require a telecommunications carrier that seeks to provide telephone exchange service or exchange access in a service area served by a rural telephone company to meet the requirements in section 214(e)(1) for designation as an eligible telecommunications carrier for that area before being permitted to provide such service. This subsection shall not apply—

“(1) to a service area served by a rural telephone company that has obtained an exemption, suspension, or modification of section 251(c)(4) that effectively prevents a competitor from meeting the requirements of section 214(e)(1); and

“(2) to a provider of commercial mobile services.

“**SEC. 254. UNIVERSAL SERVICE.**

47 USC 254.

“(a) **PROCEDURES TO REVIEW UNIVERSAL SERVICE REQUIREMENTS.**—

“(1) **FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE.**—Within one month after the date of enactment of the Telecommunications Act of 1996, the Commission shall institute and refer to a Federal-State Joint Board under section 410(c) a proceeding to recommend changes to any of its regulations in order to implement sections 214(e) and this section, including the definition of the services that are supported by Federal universal service support mechanisms and a specific timetable for completion of such recommendations. In addition to the members of the Joint Board required under section 410(c), one member of such Joint Board shall be a State-appointed utility consumer advocate nominated by a national organization of State utility consumer advocates. The Joint Board shall, after notice and opportunity for public comment, make its recommendations to the Commission 9 months after the date of enactment of the Telecommunications Act of 1996.

“(2) **COMMISSION ACTION.**—The Commission shall initiate a single proceeding to implement the recommendations from the Joint Board required by paragraph (1) and shall complete such proceeding within 15 months after the date of enactment of the Telecommunications Act of 1996. The rules established by such proceeding shall include a definition of the services that are supported by Federal universal service support mechanisms and a specific timetable for implementation. Thereafter, the Commission shall complete any proceeding to implement subsequent recommendations from any Joint Board on universal service within one year after receiving such recommendations.

“(b) **UNIVERSAL SERVICE PRINCIPLES.**—The Joint Board and the Commission shall base policies for the preservation and advancement of universal service on the following principles:

“(1) **QUALITY AND RATES.**—Quality services should be available at just, reasonable, and affordable rates.

“(2) ACCESS TO ADVANCED SERVICES.—Access to advanced telecommunications and information services should be provided in all regions of the Nation.

“(3) ACCESS IN RURAL AND HIGH COST AREAS.—Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

“(4) EQUITABLE AND NONDISCRIMINATORY CONTRIBUTIONS.—All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.

“(5) SPECIFIC AND PREDICTABLE SUPPORT MECHANISMS.—There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service.

“(6) ACCESS TO ADVANCED TELECOMMUNICATIONS SERVICES FOR SCHOOLS, HEALTH CARE, AND LIBRARIES.—Elementary and secondary schools and classrooms, health care providers, and libraries should have access to advanced telecommunications services as described in subsection (h).

“(7) ADDITIONAL PRINCIPLES.—Such other principles as the Joint Board and the Commission determine are necessary and appropriate for the protection of the public interest, convenience, and necessity and are consistent with this Act.

“(c) DEFINITION.—

“(1) IN GENERAL.—Universal service is an evolving level of telecommunications services that the Commission shall establish periodically under this section, taking into account advances in telecommunications and information technologies and services. The Joint Board in recommending, and the Commission in establishing, the definition of the services that are supported by Federal universal service support mechanisms shall consider the extent to which such telecommunications services—

“(A) are essential to education, public health, or public safety;

“(B) have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;

“(C) are being deployed in public telecommunications networks by telecommunications carriers; and

“(D) are consistent with the public interest, convenience, and necessity.

“(2) ALTERATIONS AND MODIFICATIONS.—The Joint Board may, from time to time, recommend to the Commission modifications in the definition of the services that are supported by Federal universal service support mechanisms.

“(3) SPECIAL SERVICES.—In addition to the services included in the definition of universal service under paragraph (1), the Commission may designate additional services for such support mechanisms for schools, libraries, and health care providers for the purposes of subsection (h).

“(d) **TELECOMMUNICATIONS CARRIER CONTRIBUTION.**—Every telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service. The Commission may exempt a carrier or class of carriers from this requirement if the carrier’s telecommunications activities are limited to such an extent that the level of such carrier’s contribution to the preservation and advancement of universal service would be de minimis. Any other provider of interstate telecommunications may be required to contribute to the preservation and advancement of universal service if the public interest so requires.

“(e) **UNIVERSAL SERVICE SUPPORT.**—After the date on which Commission regulations implementing this section take effect, only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support. A carrier that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Any such support should be explicit and sufficient to achieve the purposes of this section.

“(f) **STATE AUTHORITY.**—A State may adopt regulations not inconsistent with the Commission’s rules to preserve and advance universal service. Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, in a manner determined by the State to the preservation and advancement of universal service in that State. A State may adopt regulations to provide for additional definitions and standards to preserve and advance universal service within that State only to the extent that such regulations adopt additional specific, predictable, and sufficient mechanisms to support such definitions or standards that do not rely on or burden Federal universal service support mechanisms.

“(g) **INTEREXCHANGE AND INTERSTATE SERVICES.**—Within 6 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall adopt rules to require that the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas. Such rules shall also require that a provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State.

Rules.
Rural areas.

“(h) **TELECOMMUNICATIONS SERVICES FOR CERTAIN PROVIDERS.**—

“(1) **IN GENERAL.**—

“(A) **HEALTH CARE PROVIDERS FOR RURAL AREAS.**—A telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health care services in a State, including instruction relating to such services, to any public or nonprofit health care provider that serves persons who reside in rural areas in that State at rates that are reasonably comparable to rates charged for similar services in urban areas in that State. A telecommunications carrier providing service under this paragraph shall be entitled to have an amount equal to the difference, if any,

between the rates for services provided to health care providers for rural areas in a State and the rates for similar services provided to other customers in comparable rural areas in that State treated as a service obligation as a part of its obligation to participate in the mechanisms to preserve and advance universal service.

“(B) EDUCATIONAL PROVIDERS AND LIBRARIES.—All telecommunications carriers serving a geographic area shall, upon a bona fide request for any of its services that are within the definition of universal service under subsection (c)(3), provide such services to elementary schools, secondary schools, and libraries for educational purposes at rates less than the amounts charged for similar services to other parties. The discount shall be an amount that the Commission, with respect to interstate services, and the States, with respect to intrastate services, determine is appropriate and necessary to ensure affordable access to and use of such services by such entities. A telecommunications carrier providing service under this paragraph shall—

“(i) have an amount equal to the amount of the discount treated as an offset to its obligation to contribute to the mechanisms to preserve and advance universal service, or

“(ii) notwithstanding the provisions of subsection (e) of this section, receive reimbursement utilizing the support mechanisms to preserve and advance universal service.

“(2) ADVANCED SERVICES.—The Commission shall establish competitively neutral rules—

“(A) to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and nonprofit elementary and secondary school classrooms, health care providers, and libraries; and

“(B) to define the circumstances under which a telecommunications carrier may be required to connect its network to such public institutional telecommunications users.

“(3) TERMS AND CONDITIONS.—Telecommunications services and network capacity provided to a public institutional telecommunications user under this subsection may not be sold, resold, or otherwise transferred by such user in consideration for money or any other thing of value.

“(4) ELIGIBILITY OF USERS.—No entity listed in this subsection shall be entitled to preferential rates or treatment as required by this subsection, if such entity operates as a for-profit business, is a school described in paragraph (5)(A) with an endowment of more than \$50,000,000, or is a library not eligible for participation in State-based plans for funds under title III of the Library Services and Construction Act (20 U.S.C. 335c et seq.).

“(5) DEFINITIONS.—For purposes of this subsection:

“(A) ELEMENTARY AND SECONDARY SCHOOLS.—The term ‘elementary and secondary schools’ means elementary schools and secondary schools, as defined in paragraphs (14) and (25), respectively, of section 14101 of the

Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

“(B) HEALTH CARE PROVIDER.—The term ‘health care provider’ means—

“(i) post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools;

“(ii) community health centers or health centers providing health care to migrants;

“(iii) local health departments or agencies;

“(iv) community mental health centers;

“(v) not-for-profit hospitals;

“(vi) rural health clinics; and

“(vii) consortia of health care providers consisting of one or more entities described in clauses (i) through (vi).

“(C) PUBLIC INSTITUTIONAL TELECOMMUNICATIONS USER.—The term ‘public institutional telecommunications user’ means an elementary or secondary school, a library, or a health care provider as those terms are defined in this paragraph.

“(i) CONSUMER PROTECTION.—The Commission and the States should ensure that universal service is available at rates that are just, reasonable, and affordable.

“(j) LIFELINE ASSISTANCE.—Nothing in this section shall affect the collection, distribution, or administration of the Lifeline Assistance Program provided for by the Commission under regulations set forth in section 69.117 of title 47, Code of Federal Regulations, and other related sections of such title.

“(k) SUBSIDY OF COMPETITIVE SERVICES PROHIBITED.—A telecommunications carrier may not use services that are not competitive to subsidize services that are subject to competition. The Commission, with respect to interstate services, and the States, with respect to intrastate services, shall establish any necessary cost allocation rules, accounting safeguards, and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.

“SEC. 255. ACCESS BY PERSONS WITH DISABILITIES.

47 USC 255.

“(a) DEFINITIONS.—As used in this section—

“(1) DISABILITY.—The term ‘disability’ has the meaning given to it by section 3(2)(A) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)(A)).

“(2) READILY ACHIEVABLE.—The term ‘readily achievable’ has the meaning given to it by section 301(9) of that Act (42 U.S.C. 12181(9)).

“(b) MANUFACTURING.—A manufacturer of telecommunications equipment or customer premises equipment shall ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable.

“(c) TELECOMMUNICATIONS SERVICES.—A provider of telecommunications service shall ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable.

“(d) COMPATIBILITY.—Whenever the requirements of subsections (b) and (c) are not readily achievable, such a manufacturer or provider shall ensure that the equipment or service is compatible

with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

“(e) GUIDELINES.—Within 18 months after the date of enactment of the Telecommunications Act of 1996, the Architectural and Transportation Barriers Compliance Board shall develop guidelines for accessibility of telecommunications equipment and customer premises equipment in conjunction with the Commission. The Board shall review and update the guidelines periodically.

“(f) NO ADDITIONAL PRIVATE RIGHTS AUTHORIZED.—Nothing in this section shall be construed to authorize any private right of action to enforce any requirement of this section or any regulation thereunder. The Commission shall have exclusive jurisdiction with respect to any complaint under this section.

SC 256.

“SEC. 256. COORDINATION FOR INTERCONNECTIVITY.

“(a) PURPOSE.—It is the purpose of this section—

“(1) to promote nondiscriminatory accessibility by the broadest number of users and vendors of communications products and services to public telecommunications networks used to provide telecommunications service through—

“(A) coordinated public telecommunications network planning and design by telecommunications carriers and other providers of telecommunications service; and

“(B) public telecommunications network interconnectivity, and interconnectivity of devices with such networks used to provide telecommunications service; and

“(2) to ensure the ability of users and information providers to seamlessly and transparently transmit and receive information between and across telecommunications networks.

“(b) COMMISSION FUNCTIONS.—In carrying out the purposes of this section, the Commission—

“(1) shall establish procedures for Commission oversight of coordinated network planning by telecommunications carriers and other providers of telecommunications service for the effective and efficient interconnection of public telecommunications networks used to provide telecommunications service; and

“(2) may participate, in a manner consistent with its authority and practice prior to the date of enactment of this section, in the development by appropriate industry standards-setting organizations of public telecommunications network interconnectivity standards that promote access to—

“(A) public telecommunications networks used to provide telecommunications service;

“(B) network capabilities and services by individuals with disabilities; and

“(C) information services by subscribers of rural telephone companies.

“(c) COMMISSION’S AUTHORITY.—Nothing in this section shall be construed as expanding or limiting any authority that the Commission may have under law in effect before the date of enactment of the Telecommunications Act of 1996.

“(d) DEFINITION.—As used in this section, the term ‘public telecommunications network interconnectivity’ means the ability of two or more public telecommunications networks used to provide telecommunications service to communicate and exchange informa-